Mr. Chairman and members of the committee, good morning. My name is Carolyn Esther McCormick, and I am the Managing Director of the Outer Banks Visitors Bureau; Dare County Tourism Board, a North Carolina public authority. I am a resident of Nags Head, North Carolina; which is located along the Outer Banks and a mother of two girls. I am here today about preserving and continuing protection for America's national treasures, our fragile economies, natural environment, fisheries and heritage for our children, our grand children and great grand children; and to voice concern over HR-4761.

The Outer Banks are truly America's Beaches. A free and open access chain of barrier islands off the northeastern coast of North Carolina. The birth place of English speaking America in 1587 - Ft. Raleigh National Historic Site; home of man's first powered flight in 1903 – Wright Brothers National Memorial; Cape Hatteras National Seashore, the Nation's first national seashore established in 1953; Pea Island National Wildlife Refuge, and Alligator River National Wildlife Refuge. 70% of our fragile barrier islands are owned by the people of the United States and managed by the United States Department of the Interior.

Annually we welcome over 5 million visitors to our Nation's seashore and National parks; our research indicates the main motivation for visitation is our natural, cultural and historic resources. (OBVB 2005-2006 Visitor Profile Study.)

Tourism in America is a 1.3 trillion dollar industry with coastal communities representing over 700 billion dollars annually. Last year travel and tourism generated over 100 billion dollars in tax revenues for state, local and federal governments with 50% of leisure travelers this year making their vacation a "naturalistic trip".

For the last 25 years the House of Representatives has extended the annual bipartisan legislative protection for America's most sensitive coastal waters. And in May of 2006 the House again extended this protection for the 26 th year. In spite of this outcome on the House Floor, the House Resources Committee is today considering HR 4761, a complex offshore drilling bill that reverses this year's current coastal protection, exempts various offshore activities from present environmental law, pre-empts longstanding state authority over subsea pipeline corridors in state waters, complicates efforts to repurchase non-producing federal offshore leases, and enables oil companies to avoid the cost of removing their drilling rigs at the end of production.

This current bill, HR 4761, would immediately lift all of the congressional offshore drilling prohibitions nationwide, and then would position each coastal state against their adjoining coastal states, as states become the object of fiscal coercion to convince them to sacrifice their coastal waters to drilling impacts. Other provisions of HR 4761 would immediately reverse presidential offshore drilling withdrawals in the Gulf of Mexicothat were first put in place by former president George Herbert Walker Bush.

The bill would also greatly accelerate new offshore drilling off of Florida by requiring multiple lease offerings in the *Lease Sale 181* area without the preparation of updated environmental studies. The waters off of Cape Hatteras and on the Outer Banks have long been recognized as one of the last places that should be jeopardized by offshore oil and gas drilling impacts, and these areas were, in fact, bought back with a substantial federal expenditure when they were inappropriately leased to the oil industry in previous years.

Oil and gas development is a dirty and destructive business that damages coastlines, harms ecosystems, and directly threatens our tourism, fishing and real estate economies. The people of Dare County have a history of strongly opposing offshore drilling. Resolutions opposing drilling have been filed by the Towns of Nags Head, Kill Devil Hills, Kitty Hawk, Southern Shores, Duck, Manteo, and the County of Dare. The well documented soci-economic and environmental risks alone far outweigh the rewards and set the stage of a divided states of America.

Chairman Richard Pombo's, Committee on Resources, letter dated June 8, 2006, on the Hearing on HR, 4761 the Domestic Energy Production through Offshore Exploration and Equitable Treatment of State Holdings Act of 2006 states:

- *The Bill allows for coastal state self –determination and revenue sharing*
- *Enhances the country's ability to increase domestic production of oil and natural gas, alternative energy and minerals from the federal Outer Continental Shelf*

- *Diminish the amount of foreign –oil imports required to meet the nation's energy needs*

What HR 4761 does in reality?

- Immediately terminates the twenty-five year congressional moratorium that protects the entire US West Coast, all of the East Coast, and Florida's Gulf Coast and Panhandle *(section 15)*. This provision exposes all of the Florida Gulf Coast and Panhandle to near shore offshore oil and gas leasing, much closer to the coast than Lease Sale 181.

- Longstanding pre-existing presidential Outer Continental Shelf withdrawals,first put in place by former President George H.W. Bush, extended in duration by President Bill Clinton until 2012, and located within the Gulf of Mexico are immediately revoked upon passage of this Act, *Section 9*, *item (2).* The 2007-2012 Outer Continental Shelf Leasing Program is amended by this act to include two sequential lease sales, in January 2007 and June of 2007, to occur in the Gulf of Mexico within the Lease Sale 181 area, without any updating of existing Environmental Impact Statement analyses, (*Section 9, item 2)*.

- Makes an arbitrary finding, without any supporting scientific documentation of any kind, that gas drilling more than 25 miles offshore and oil drilling more than 50 miles offshore would not adversely affect resources near the coastline (*Section 2, item 4)*.

- Formally establishes what it calls new "State Seaward Boundaries", which are arbitrary extensions of onshore boundaries between coastal states that continue out into the ocean, applying lines that are deemed entirely inequitable by many shoreline states *(section 4)*.

- Grants to the Secretary of Interior unilateral jurisdiction over preparing final regulations enabling what the bill calls "natural gas only" leasing *(section 5, items 2,3,4)*, but gives the Secretary the sole right to decide to instead grant oil companies the right to produce oil on these "gas only" leases unless the Governor and the legislature of the nearby adjoining state, or the Governor and state legislature of any neighboring coastal state within 50 miles of the lease, object within 180 days of being notified of the oil discovery *(section 6, items 1,2)*.

- Grants to the Secretary of Interior the right to arbitrarily approve production of a mixture of natural gas liquids (liquid gas condensate) and gaseous natural gas when the Secretary is considering a lease to be defined as a "gas only" lease *(section 6, item 8).*

- Grants to the owners of offshore leases in any region the right to transport produced crude oil through the waters of the adjacent state, and through the waters of any neighboring states, unless the adjacent coastal state or the neighboring state objects to production of oil from such a "gas-only lease". Since the bill does not specify transportation method, such pre-approved transport of crude oil could be either by tanker, barge, or subsea pipeline *(section 6, Item 4)*.

- Allows the Secretary of Interior to issue more than one lease for a given offshore drilling tract, so that each lease may apply to a separate and distinct range of vertical depths, different horizontal surface areas, or a combination of the two *(section 6, Item 1)*.

- Requires that an oil company holding any offshore "gas only" lease that may repurchased by the federal government at the request of the lessee because it is found to contain oil instead of, or in addition to, natural gas, and therefore does not qualify as a natural gas lease, must be repaid by the federal government for the original cost of the bonus bid paid for the lease, for lease rents, for seismic acquisition costs, and for drilling costs, and for other unidentified "reasonable expenses". The Secretary of Interior shall recover from the adjacent state and from local governments any funds previously shared with them that were derived from the repurchased lease, if such payments were payable after the date of repurchase. The lessee of a repurchased gas lease can obtain a priority right to acquire a future oil and gas lease within 30 years after the repurchase *(Section 6, item 7)*.

- Oil company partnerships would be allowed to bid jointly on tracts in offshore regions determined by the Secretary of Interior to be "frontier tracts" or which are what the bill calls "high cost tracts" *(section 6, item [r])*.

- A portion of federal receipts from lease tracts beyond 4 marine leagues and within 100 miles of any coastline that are available for leasing under the 2002-2007 Oil and Gas Leasing Program before adoption of this Act, and lease tracts beyond 4 marine leagues and within 100 miles from any coastline that were made available for leasing by this Act, as well as lease tracts located throughout the Alaska OCS region beyond 4 marine leagues and within 100 miles of any coastline - will be subject to a sharing of prescribed escalating percentages of OCS federal receipts according to an allocation formula specified in (*Section 7, (B)).* A 75% share of federal receipts from tracts located within 4 marine leagues of any coastline shall be deposited into a separate account for subsequent

allocation, (*Section* 7, (4)). For Bonus bids, 87.5 percent of the accrued federal revenues shall be conveyed to the adjacent state, and 6.25 percent shall be allocated to the federal Treasury, (*Section 7, (5) [i] and [ii]).* For Royalties, 87.5 percent shall be allocated to the adjacent state or to any other producing state with a leased tract in its adjacent zone within 100 miles of its coastline that generated royalties during the fiscal year, except in the event that other producing states have a coastline point within 300 miles of any portion of the leased tract, the amount shall be distributed with one-third to the adjacent state and two-thirds to each producing state according to a formula inversely proportional to the distance between the nearest point on the coastline of the producing state and the geographic center of the leased tract, (*Section 7, (B) [i] through [iv]).*

- For tracts partially or completely beyond 100 miles of the coastline, a separate escalating formula of deposits of federal receipts shall be followed *(section 7 (c) (1) and (2))* and one-third of the royalties shall be passed to the adjacent state - and two-thirds to each producing state - according to a formula inversely proportional to the distance between the nearest point on the coastline of the producing state and the geographic center of the leased tract, *(section 7, (B) [i] to [iv])*. Of these allocations, counties and county-equivalent political subdivisions shall receive 25 percent of the allocation based on the ratio of such coastal counties to the coastline miles of all coastal counties in the State. Coastal counties without a coastline shall be considered to have 50 percent of the average shoreline miles of the coastal counties that do have shorelines. Another 25 percent of the county allocation shall be based on the ratio of the county's population to the coastal population of all counties in the state, 25 percent shall be allocated to counties with a coastal point within 300 miles of the leased tract - based on the county's relative distance from the leased tract, *(section 7, (2) (D))*. And 25 percent of the allocation shall be based on the relative level of offshore oil and gas activities in the county compared to the level of oil and gas activities off of all counties in the state.

- Funds allocated to states and counties can be used for a broad and poorly defined array of purposes, and no standards are applied to ensure that the money is spent to restore damage caused by offshore oil and gas activities. Activities that further harm the coastal zone, including improvements to infrastructure associated with offshore energy production activities and any other purpose determined by state law can be funded with these allocations, and no accounting the federal government is required for any of these expenditures, except as otherwise required by law (*Section 7, (3) [f])*.

- The enactment of any future congressional legislative moratorium on expanded offshore oil and gas leasing will automatically prohibit any sharing of federal receipts from offshore drilling with the affected states or localities for the duration of any such restriction, *(section 7, (3), [h])*.

- The President is authorized by this bill to partially or completely revise or revoke any prior withdrawal made by the President under the authority of Section 9 *(Section 9, [1]).* Any such withdrawal requested by a state may be for a term not to exceed ten years, and the President is directed to accommodate competing interests and potential uses of the Outer Continental Shelf in considering whether or not to grant the withdrawal petition of any state *(Section 9, [1]).*

- Governors of coastal states, with the concurrence of their state legislatures, may petition the Secretary of Interior to open any area adjacent to their state that is more than 25 miles from the coastline of any neighboring state for offshore gas leasing and related activities, or any area that is more than 50 miles from the coastline of any neighboring state for offshore oil and gas leasing and related activities, (*Section 9, item (3) (A)).* In analyzing the decision to lease an area under the terms of this provision, the Secretary of Interior needs only to prepare a cursory Environmental Assessment (EA) document, and is not required to prepare a full Environmental Impact Statement (EIS) as stipulated by the National Environmental Policy Act. Broad discretionary authority is granted to the Secretary of Interior with respect to the terms and conditions under which such offshore development will be allowed to occur, and, to expedite such new leasing, the Secretary of Interior is permitted to amend the current Five-Year Leasing Program to accommodate such new leasing unless less than 12 months remain in the current Five-Year Leasing Program, (*Section 9, item (3) (B) (C) (D)).*

- The Governor of a state, acting with the concurrence of its state legislature, may also petition that any area within 125 miles of the state's coastline be withdrawn from leasing, for either oil or gas or both, but each state must submit separate petitions for distances within 50 miles of the coastline, with separate votes by the legislature each time, and must submit separate petitions for areas beyond 100 miles of the coastline, but not exceeding 125 miles of the coastline. The Secretary of Interior shall, within 90 days, prepare an Environmental Assessment to evaluate the effects of approving the state's petition. The Secretary shall not approve a state's petition for more than a total of ten years, but may approve such petitions repeatedly ad infinitum, in response to repeated requests from the state at appropriate intervals, (*Section 9, [h] (1) and (2)).* Any state's constitutional provision, or any state statute or state law, that has the effect of restricting either the Governor or the state legislature, or both, under this section, shall automatically forfeit for that state any sharing of federal Outer Continental Shelf receipts and simultaneously be prevented from exercising any state request for any

withdrawal from leasing, for the duration of such state constitutional or state legislative action, (*Section 9, (B) [i]).*

- The bill will require that seventy-five percent of the available un-leased acreage within each offshore planning area be offered in each Five-Year leasing Program, (*Section 10, item (1)).*
- The bill authorizes the Secretary of Interior to consider and analyze leasing throughout the entire US Outer Continental Shelf without regard to any other law affecting such leasing. The bill elevates any military space-use conflicts to the President for resolution, if the Secretary of Interior is unable to resolve such conflicts with the Secretary of Defense, (*Section 10, item (1)).*
- If the governor of an affected coastal state requests in writing a modification of any proposed leasing action at least 15 days prior to the submission of the Five-Year Leasing Program to Congress, the Secretary of Interior shall reply to that Governor in writing, granting or denying such request, (*Section 10, item (2)).* The Secretary of Interior, at the beginning of the development of each Five-Year Leasing Program, provide each adjacent state with a current estimate of potential oil and gas resources off of that state, and with a best-efforts projection of the share of federal leasing receipts that state can expect to receive if it cooperated with federal offshore leasing plans off of its coastline, (*Section 19, item (2)).*
- If a coastal state requests protection for its offshore waters, no subsea pipeline carrying oil or gas can be sited through the protected zone unless more than fifty percent of the production projected to be carried by the pipeline within its first ten years of operation is from that same state's adjacent zone waters, (*Section 11, item (f)(1)).* No state may prohibit the construction of a subsea pipeline for natural gas through its adjacent waters. No state may object to a natural gas pipeline landing location on its coast unless it proposes two alternate pipeline landing locations on its own coastline, each located within 50 miles on either side of the proposed landing location, (*Section 11, item (2)).*
- Many damaging offshore oil and gas activities would be exempted from the need to prepare an Environmental Impact Statement (EIS) under NEPA, including the conduct of seismic airgun surveys, and individual lease sales would no longer require the preparation of an Environmental Impact Statement (EIS), as the generic Environmental Impact Statement prepared for each Five-Year Leasing Program would be deemed by this Act to be sufficient to comply with NEPA for all lease sales in the Program. No Environmental Impact Statement (EIS) would need to be prepared for a Plan of Exploration, and no EIS would be required for a Plan of Development after the first one is prepared for each area, (*Section 12, item (2)(A)(B)(C)).* A development and production plan may be submitted by a lessee that is deemed to cover more than one lease at a time. An exploration plan would be required to be reviewed by the Secretary of Interior within ten (10) days of submission, (*Section 19, (2)(B)).*
- The Secretary of Interior is given the authority to review each development and production plan to ensure that it is consistent with all statutory and regulatory requirements applicable to the lease, (*Section 10, (e) (4)).* The language of the bill is not clear as to whether this provision exempts plans of development and production from the traditional federal "consistency determinations" customarily conducted by coastal states under the authority granted to them by the Coastal Zone Management Act, a critical opportunity for impacted states to participate in planning decisions affecting their coastline. The Federal Energy Regulatory Commission and the Department of Interior will decide between their two agencies which will prepare a single Environmental Impact Statement related to facilities for the transportation of natural gas, (*Section 10, (h)).*
- The bill creates what is called a "*Federal Energy Natural Resources Enhancement Fund Act of 2006*", derived from a share of federal Outer Continental Shelf receipts that can be utilized for a wide range of mitigations for damage done by offshore drilling and for natural resource restoration and enhancement uses, but not for land acquisition of any kind, (*Section 14, (5)).*
- The bill grants broad new primacy to the Department of Interior in use of the Outer Continental Shelf, and states that no federal agency may permit construction or operation of any facility, or designate or maintain any transportation corridor or operating area, on the Federal Outer Continental Shelf or in State waters, that will be incompatible with, in the view of the Secretary of Interior, oil and gas leasing and substantially full exploration and production of tracts that are geologically productive for oil or natural gas, (*Section 16 (a)).*
- The bill grants the Secretary of Interior the authority to repurchase, or buy back, any offshore lease if the lessee requests such a repurchase and if the Secretary finds that such lease is qualified for such repurchase because a federal permit was denied (except denial under the Coastal Zone Management Act), or because a condition of approval was attached to a permit that was not mandated by federal statute. The bill establishes that the financial restitution that a lessee shall

receive will be the amount that a lessee would receive in a restitution case for a material breach of contract. If the Secretary of Interior fails to make a final decision on a request by a lessee for a repurchase of a lease within 180 days of the request, a ten percent increase in the compensation due to the lessee will be added if the lease is ultimately repurchased, (*Section 17 (b)(1 through 6)).*

- The bill sets a precedent for allowing offsite environmental mitigation at a location away from the area impacted; (*see Section 18)* if the Secretary of Interior believes that such mitigations generally achieve the purposes for which mitigation measures are put in place.
- The Secretary of Interior would be instructed to issue regulations enabling the application of decommissioned oil rigs for offshore fish farms, artificial reefs, and other purposes, and all platforms would no longer need to be removed and the drilling site would no longer need to be restored at the end of the project's economical life cycle, at the sole discretion of the Secretary of Interior, (*Section 10)*. A state may request to opt-out of this program of leaving decommissioned rigs in place onsite, but the Secretary of Interior may or may not honor the state's request.
- The existing requirement in the Omnibus Energy Act of 2005 to conduct a comprehensive seismic inventory of all Outer Continental Shelf waters would be rescinded, *(section 22)*.
- Certain undefined existing leases within 100 miles of California or Florida could be exchanged by the lessee, if the lessee so requests and if the Secretary of Interior agrees, for a new oil and gas lease, any part of which is located between 100 and 125 miles of the coastline, and which is completely beyond 100 miles of the coastline, off of the same state, (*Section 27, (1)).*
- Existing Coastal Impact Assistance is repealed (*Section 28)*.
- Reduction of onshore leasing royalties collected for tar sands and oil shale may be enacted at the discretion of the Secretary of Interior to offer incentives the development of such resources (*Section 29)*.

Lifting the OCS Moratorium will have damaging consequences for our beaches, for marine life and their habitat, and for the broader environment

Damage to Marine Life and habitat **:** While there have been many advances in oil and gas recovery technologies in recent decades, many serious consequences still result from exploration and drilling for either oil or gas.

Seismic Surveying

Marked changes in behavior in marine species in response to loud underwater noises in the ocean have been well documented. Seismic survey devices and military sonar's (which operate at a similar decibel level) have been implicated in numerous whale beaching and stranding incidents, one recently in Nags Head, North Carolina.

Onshore damage: The onshore infrastructure associated with offshore oil or gas causes significant harm to the coastal zone. For example, OCS pipelines crossing coastal wetlands in the Gulf of Mexico are estimated to have destroyed more coastal salt marsh than can be found in the stretch of coastal land running from New Jersey through Maine.

Water pollution: Drilling muds are used to lubricate drill bits, maintain downhole pressure, and serve other functions. Drill cuttings are pieces of rock ground by the bit and brought up from the well along with used mud. Massive amounts of waste muds and cuttings are generated by drilling operations. Most of this waste is dumped untreated into surrounding waters. Drilling muds contain toxic metals, including mercury and lead.

Air pollution*:* Drilling an average exploration well for oil or gas generates some 50 tons of nitrogen oxides (NOx), 13 tons of carbon monoxide, 6 tons of sulfur dioxide, and 5 tons of volatile organic hydrocarbons. Each OCS platform generates more than 50 tons per year of NOx, 11 tons of carbon monoxide, 8 tons of sulfur dioxide and 38 tons of volatile organic hydrocarbons every year.

Oil spills: If offshore areas are leased for gas exploration, there is a possibility that oil will be found. There were some *3 million gallons* of oil spilled from OCS oil and gas operations in 73 incidents between 1980 and 1999. Oil is extremely toxic to a wide variety of marine species, and as noted by a recent National Academy of Sciences study, current cleanup methods are incapable of removing more than a small fraction of the oil spilled in marine waters.

It is important to note that, with the exception of oil spills, the environmental damages described above result from drilling or exploring for either oil or natural gas, so any suggestion that restricting leases to natural gas drilling only will not adequately reduce risk of environmental impacts.

Drilling in the OCS will have damaging effects on local economies:

The industrial character of offshore oil and gas development is often at odds with the existing economic base of the affected coastal communities, many of which rely on tourism, coastal recreation and fishing. In Dare Country, NC, the Outer Banks Visitors Bureau has been fighting efforts to lift the ban on coastal drilling precisely because it realizes what a crushing effect coastal drilling could have on the Outer Banks' 640 million dollar tourist economy. If there's one spill or one disaster, the Outer Banks could be destroyed for a very long time. The powerful hurricanes that battered the gulf coast have destroyed drilling platforms, underwater pipelines and coastal storage tanks, dumping millions of gallons of oil.Drilling in hurricane and storm-plagued waters has proven to be disastrous.

In addition to potentially catastrophic effects on the tourism industry, drilling for gas and oil off our coasts could have significant negative impacts on commercial and recreational fishing, our fisheries, marsh lands, and marine habitat. Jobs and the environment are not mutually exclusive. A balanced economy is based on a clean healthy marine environment and efforts need to be focused on restoring our marine environment and bringing back our fisheries.

Plenty of natural gas is already available for lease and permitting

The majority of federal oil and gas resources are already available for development. According to the 2003 Energy Policy and Conservation Act (EPCA) report issued by the Department of the Interior, 85% of federal onshore oil resources and 88% of federal onshore natural gas resources (122.6 trillion cubic feet, or tcf) occurring on federal lands in Montana, Colorado, New Mexico, Utah and Wyoming are already available for leasing and development. Only 12% of federal onshore natural gas resources are off-limits to leasing. Eighty percent of the nation's undiscovered, economically recoverable Outer Continental Shelf (OCS) gas is already available for leasing. Thus, a permanent protection for the coastal moratorium areas will leave the vast majority of the nation's OCS gas available to the industry.

In addition to availability for leasing, Bureau of Land Management (BLM) data indicates that the vast majority of federal lands currently under lease are not being developed. Of the more than 35,000,000 acres of public lands under lease, development is occurring or has occurred on approximately 12,000,000 acres. Drilling permit approvals on western public lands by the BLM increased by 62 percent in 2004, to a record number of 6,052, while the number of new wells that were drilled declined by nearly 10 percent, to 2,702.

Based on this data, it is clear that the vast majority of federal oil and gas resources occurring on federal lands in the Rockies are available for development. In addition, most of the leased lands are not in development, and the BLM has issued thousands more drilling permits than the industry is actually able to drill. The oil and gas industry clearly has plenty of access to our public lands already; there is no reason to grant access to additional areas currently under moratorium for additional leasing.

There are smarter, less expensive, and faster solutions for rising gasoline and natural gas prices

The United States consumes about 25% of the world's energy. It is not likely that we can drill our way to energy independence. We must decrease our energy dependence by other means and invest more time and money into clean energy solutions. A recent study by the Union of Concerned Scientists found that by getting 20% of our energy from clean sources like wind and solar by 2020 we can reduce natural gas consumption by 6% by year 2020. According to an April 2005 study by the American Council for and Energy Efficient Economy, if we use technology available today to make our homes, buildings, and industry more energy efficient, we can save up to 12.6% of the natural gas they project we would be using by 2020. Studies have indicated that implementing these programs would create thousands of new jobs and save consumers hundreds of dollars a year in energy bills every year. Promoting renewable energy and efficiency would also encourage innovation and new technology, reduce pollution, and decrease our reliance on foreign sources of energy.

The public supports the ban on drilling off our coasts

Concerns over environmental consequences of offshore oil and gas development have led Congress to impose restrictions on OCS activities in sensitive areas off the nation's coasts every year since 1981. These moratoria now protect the east and west coasts of the U.S. and most of the eastern Gulf of Mexico. The moratoria reflect a clearly established consensus on the appropriateness of OCS activities in most areas of the country, and have been endorsed by an array of elected officials from all levels of government and diverse political persuasions, including former Presidents George H.W. Bush and Clinton, who are joined by our current President, George W. Bush.

Conclusion

All of America's coastal communities are being pressured to put their vibrant economies, heritage, and

environmental resources at risk when nothing is being done on a national scale to conserve resources and seek alternative energy sources for this generation and generations to come.

HR 4761 rescinds the entire congressional moratorium nationwide, permanently transfers authority over continued coastal protection away from the United States Congress and fragments the decision to coastal states on what is a National Public Policy Issue, and does this in a manner that makes the decision over where and when to drill offshore more readily influenced by the oil industry.

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